

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Lynchburg Division**

POWER HOME SOLAR, LLC D/B/A)

PINK ENERGY,)

Plaintiff,)

v.)

Case No. 6:22-cv-00043

GENERAC POWER SYSTEMS, INC.,)

Defendant.)

DEFENDANT’S OBJECTION AND MOTION TO STRIKE
MOTION TO JOIN CLASS ACTION

Defendant Generac Power Systems, Inc. (“Generac”), by counsel, objects and moves the Court to strike the Motion to Join This Class Action filed by Edwin D. Alvin (“Alvin”), pro se, stating as follows:

1. Plaintiff, Power Home Solar, LLC d/b/a Pink Energy (“PHS”), filed its Complaint (Doc. 1) in this matter on August 1, 2022 alleging counts of Violation of the Magnuson-Moss Warranty Act, Breach of the Implied Covenant of Good Faith and Fair Dealing, Promissory Estoppel, Breach of Contract, Negligence, Products Liability, Breach of Implied Warranty of Merchantability and Fitness for a Particular Purpose, Breach of Express Warranty, Negligent Interference with Prospective Economic Relations, Fraudulent Inducement, and Equitable Indemnification.

2. On September 23, 2022, Generac filed a Motion to Dismiss and Compel Arbitration or, in the Alternative, Transfer Venue (Doc. 11).

3. On October 7, 2022, PHS filed a Suggestion of Bankruptcy (Doc. 36), a Proposed Joint Stipulation to Toll Deadlines Due to Plaintiff’s Bankruptcy Filing (Doc. 37), and a Proposed Joint Motion to Toll Deadlines Due to Plaintiff’s Bankruptcy Filing (Doc. 38).

4. By Oral Order entered on October 11, 2022 (Doc. 39), the Court granted the Motion to Toll Deadlines.

5. On December 19, 2022, Alvin filed a Motion to Join This Class Action (Doc. 44) in which he purports to be a plaintiff in this matter and “contend[s] that he is in the same predicament as all other plaintiffs in this class action.” He appears to allege damages arising from a contractual relationship with Plaintiff, PHS.

6. Contrary to the assertion in Alvin’s Motion, this action is not a class action.

7. Contrary to the assertion in Alvin’s Motion, he is not similarly situated to the single plaintiff in this action, PHS.

9. This action is effectively stayed as a result of PHS’ bankruptcy filing.

WHEREFORE, Generac respectfully requests that the Court strike Alvin’s Motion to Join This Class Action from this action.

GENERAC POWER SYSTEMS, INC.

By Counsel

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/s/ Glenn W. Pulley

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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of December 2022, a true and correct copy of the foregoing was filed with the Clerk of Court using the CM/ECF system, which provided electronic service to all counsel of record and that a copy was mailed and emailed to the following pro se individual:

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/s/ Glenn W. Pulley